

REMARKS

Claims 1-36 are pending before the Examiner upon entry of the above amendments. Claims 1, 6-8, 12, 16-18, 21, 24, 27, and 36 have been amended. Support for the amendments to these claims can be found in the originally filed claims, and in the specification at, *e.g.*, page 9, lines 15-17. No new matter is introduced.

Claims 4, 6, 7, 11-14, 16, 17, 30, 32-34, and 36 are deemed allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. See Office Action, page 3, lines 13-15.

Claim Rejections -- 35 U.S.C. § 102

Claims 1-3, 5, 8-10, 15, 18-29, 31 and 35 are rejected under 35 U.S.C. § 102(b) and (e) (2) for being anticipated by Helentjaris *et al.* (Patent No. 5,385,835, "Helentjaris"). In particular, the Examiner states that RFLP determinations described in Helentjaris are reasonably distance determinations between markers via length of RFLP nucleic acids, and the RFLP patterns described in Helentjaris include the presence or absence of particular RFLPs and is a qualitative measurement as to whether the level/amount of nucleic acids are detectable.

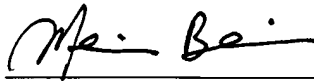
Applicants respectfully submit that the independent claims, as amended, contain at least one limitation that is not taught by Helentjaris, and of which limitations that are present in the claims that the Examiner has deemed allowable if rewritten in independent form including all of the limitations of the base claim. For example, independent claim 1 has been amended to incorporate the limitations set forth in claim 6 or 7; independent claim 8 has been amended to incorporate the limitations set forth in claim 16 or 17; claim 12 has been rewritten to an independent claim incorporating all the limitations set forth in the base claim; independent claims 18, 21, 24, and 27 have been amended to incorporate a limitation set forth in claim 36. As amended, all independent claims (and claims depending thereon) have at least one limitation that is novel and not taught by Helentjaris. In view of the foregoing, Applicants respectfully request that the rejections under 35 U.S.C. § 102 be withdrawn.

CONCLUSION

Applicants respectfully request that the amendments and remarks made herein be entered and made of record in the file history of the present application. Applicants respectfully submit that the pending claims are in condition for allowance. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Date: January 20, 2005

Respectfully submitted,



45,470

Mei L. Benni

(Reg. No.)

CuraGen Corporation

555 Long Wharf Drive, 9th Floor

New Haven, CT 06511

Tel: (203) 974-6306

Fax: (203) 401-3351